March 29, 2004

The Honorable Joe Barton
Chairman, House Energy and Commerce
2125 Rayburn House Office Building
Washington, DC 20515

The Honorable John D. Dingell
Ranking Member, House Energy and Commerce
2328 Rayburn House Office Building
Washington, D.C. 20515-2215

The Honorable Charles "Chip" Pickering
Vice Chairman, House Energy and Commerce
229 Cannon House Office Building
Washington, D.C. 20515-2403

Dear Representative:

As leading VoIP companies, on the cutting edge of developing and delivering voice innovations over the Internet, we are writing to express our deep concern with reports that the FCC is about to, for the first time, apply access charges to Internet communications – essentially taxing the Internet to subsidize the telephone network. They will reportedly do this by denying a petition asking it to refrain from applying these charges to Internet voice communications or VoIP.

Amazingly, at the dawn of a new era of Internet innovation in voice communications, the FCC is considering applying regulations designed for a 100 year old phone network to new Internet voice technologies. The growth and success of the Internet and Internet-based services like VoIP has depended and continues to depend on Internet services being largely free of traditional telecommunications regulation.

Competition and innovation have flourished. The social benefits have been enormous. The United States Congress, as well as the FCC, has been the key champions of this policy of "hands off the Internet."

The success of this hands-off policy and of Voice over IP as a technology has had a huge impact on rationalizing international settlements policies and reducing the cost to consumers of international communications. VoIP providers handle an enormous amount of international traffic; these companies depend on enlightened policies towards VoIP regulation to gain market access and foster competition in foreign markets.

Applying access charges on any class of VoIP service is unnecessary because incumbent phone companies are already fully compensated for their costs when Internet phone calls are terminated on their networks. When a phone company terminates VoIP services on its network, the phone company receives either reciprocal compensation and/or local end-user business line rates – in either case fully compensating them for the cost of the network.

The FCC is said to start by applying these access charges to the very form of VoIP that has the potential to deliver some of the earliest and most fundamental benefits – a kind of VoIP called phone-to-phone. Phone-to-phone VoIP doesn't require broadband access or use of special devices at home. Hence, it is accessible to all Americans. It is exactly this service – one that is transforming the public telephone infrastructure from within and one with the broadest potential benefit to the largest number of ordinary citizens – that the FCC is considering undermining.

If the FCC establishes a beachhead on Internet communications regulation, it could open the door to broader regulation of Internet applications down the road, or equally negative give the Bells immediate justification to begin self-help measures such as charging ISPs across the US access charges on all types of IP communications traffic that touches the phone network. That's why it's so important that we not stifle any single form of VoIP.

Rather, the FCC should stay the course by following a "hands off" approach to regulating Internet communications, keeping them free from subsidy payments to the old telephone monopolies and driving greater competition into the local phone market. This is the successful approach that has previously been taken by Congress and the FCC. The priority must be to reform both access charges and intercarrier compensation regardless of technology; and, of course, the FCC is and has been working on that since March 2001. In fact press reports indicate that a number of companies are just days away from unveiling a new breakthrough consensus agreement between local, long distance and other stakeholders for essentially doing away with access charges for all communications networks – not just VoIP.

It makes no sense to drag VoIP which, together with other Internet services helps keep the US competitive, into the morass of the existing access charge regime - which Congress directed the FCC to remove implicit subsidies from 8 years ago - prior to this reform and prior to the full deliberation the FCC is committed to under the VoIP NPRM. Denying the AT&T petition and discouraging VoIP will do harm not only to telecom but to the whole American economy as well as consumers who want and need affordable, available and more technologically advanced communication services.

Even though a ruling on just the AT&T petition may seem limited in scope, it would have negative consequences for small businesses like ours who are on the cutting edge of delivering innovations to consumers. The result of denying this petition at this time prior to full hearings on a VoIP NPRM and complete rulemaking and access charge reform is almost certain to be both a flurry of declaratory ruling requests for different flavors of VoIP and attempted self-help against a multitude of VoIP providers by those who believe that whatever ruling the FCC has made gives them license for this.

We respectfully submit that resources are better deployed fixing the intercarrier compensation system and developing a coherent, long-term policy for addressing the regulatory treatment of VoIP. The VoIP industry is committed to engaging constructively in both those efforts.

Respectfully submitted,

**Callipso**

**CallSmart**

**ITXC**

**LocalDial**

**PingTone**

**PointOne**

**Telic**

**TransCom**

**USDataNet**

**The Von Coalition**

cc: Michael D. Gallagher, Acting Administrator, NTIA
Chairman Michael Powell, FCC
Commissioner Kathleen Q. Abernathy, FCC
Commissioner Michael J. Copps, FCC
Commissioner Kevin J. Martin, FCC
Commissioner Jonathan S. Adelstein, FCC